

REMARKS/ARGUMENTS

Claims 27, 28-30, 33, 38 and 41-45 have been amended to correct errors in dependency and/or more succinctly define the invention, or to reflect correct claim drafting form. Applicants have cancelled claim 31, without relinquishing their right to pursue patent protection for the cancelled subject matter in a subsequent continuing application. Applicants respectfully submit that the amendments are not new matter. Claims 26-30 and 32-45 are now pending in the subject application.

In the Office Action mailed July 28, 2005 the Examiner required restriction under 35 U.S.C. 121 to one of the following allegedly distinct inventions as follows: "Invention I", consisting of claims 26-31 and 41-45; and "Invention II", consisting of claims 32-40. The Examiner also required applicant to elect one species for: the anti-diabetic agents of claims 27 and 30; the compounds of Claims 28 and 34; the metabolic diseases of claim 30; and the disease conditions of claim 31.

In response, applicants hereby elect, with traverse, Invention I consisting of claims 26-31 and 41-45 for the purposes of preliminary examination.

However, applicants draw the Examiner's attention to M.P.E.P. Section 803, which states:

If the search and examination of the entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. (Emphasis added)

Applicants respectfully contend that there is no serious burden on the Examiner to examine the additional nine claims of "Invention II" along with the examination of the claims of "Invention I". For example, a thorough search for methods such as those in the elected claims will necessarily involve searching both methods of treatment of disease and the agents described in the claims, for example those in claims 27 and 28.

In searching the agents one will have thus completed the required search for invention II as most of the agents described in the composition claims are identical to those described in the method claims (e.g. compare claims 27 and 28 with claims 33 and 34). Consequently, applicants respectfully request that the Examiner reconsider and withdraw this restriction requirement with respect to "Invention II".

In response to the Examiner's requirements concerning election of species for certain groups, applicants elect the species as indicated in the following table:

<u>Group</u>	<u>Species</u>	<u>Claims which read on species</u>
Claims 27 and 33	Biguanides such as metformin, phenformin or buformin	26, 28-30, 41-45, 27, 32-40.
Claims 28 and 34	H-Ser-D-Glu-Thr-Gly-D-Val-D-Lys-D-Val-OH	26, 28-30, 43-45, 27, 32-34, 36, 37, 39, 40.
Claim 30	diabetes mellitus	26, 28-30, 41-45, 27.

The Examiner indicated that the response must include a listing of all claims readable on the species elected. The third column of the table lists all claims that are readable on the above-elected species. The claims cited are those listed above, beginning at page 3.

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Respectfully submitted,



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